

FILED IN THE  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

**Nov 30, 2021**

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

ANTONIA TOMBARI, an individual,  
and TROY BRUNER, an individual,  
Plaintiffs,  
v.

STATE OF WASHINGTON, by and  
through the WASHINGTON STATE  
DEPARTMENT OF CORRECTIONS,  
a Washington State Agency; CATHI  
HARRIS, an individual; JIM RILEY,  
an individual; MEGAN SMITH, an  
individual; RENEE SCHUITMAN,  
an individual; and KRISTOPHER  
SMITH, an individual,  
Defendants.

No. 2:20-CV-00336-SAB

**THIRD AMENDED JURY TRIAL  
SCHEDULING ORDER**

**JURY TRIAL SCHEDULED FOR  
NOVEMBER 14, 2022**

Before the Court is the parties' Stipulated Motion to Continue Trial Date and Discovery Deadlines, ECF No. 28. The Court held a telephonic hearing on the Motion on October 19, 2021. Michael Maurer and Courtney Hall appeared on behalf of Plaintiffs. Nicholas Ulrich appeared on behalf of Defendants.

**THIRD AMENDED JURY TRIAL SCHEDULING ORDER \* 1**

1 The Court has reviewed the parties' Motion, ECF No. 28, has heard from  
2 counsel, is fully informed, and orders the following amended schedule for jury trial  
3 in this matter. Further, in accordance with Third Party Frontier Behavioral Health's  
4 Notice of Withdrawal of Pending Motion, ECF No. 46, the Motion for Protective  
5 Order is dismissed as moot.

6 Accordingly, **IT IS HEREBY ORDERED:**

7 **1.** The parties' Stipulated Motion to Continue Trial Date and Discovery  
8 Deadlines, ECF No. 28, is **GRANTED**.

9 **2.** Third Party Frontier Behavioral Health's Motion for Protective Order  
10 (Non-Party), ECF No. 39, is **DISMISSED as moot**.

11 **TRIAL DATES**

12 **3. Jury Trial.** The jury trial shall commence on **November 14, 2022**, at  
13 **9:00 a.m.** in **Spokane**, Washington. Counsel estimates a trial length of fourteen  
14 days.

15 **4. Pretrial Conference.** An in-person pretrial conference will be held on  
16 **October 27, 2022**, at **10:00 a.m.** in **Spokane**, Washington.

17 **DISCOVERY DEADLINES**

18 **5. Initial Disclosures.** The parties have completed initial disclosures.

19 **6. Expert Disclosures.**

20 *A. Initial Expert Disclosures.* Each Party shall identify its experts and  
21 serve written reports as required by Rule 26(a)(2) on all other parties no later than  
22 **March 29, 2022**. Each Party shall also provide dates for which those experts can  
23 be available for deposition.

24 *B. Rebuttal Expert Disclosures.* Each Party shall identify its rebuttal  
25 experts and serve written reports as required by Rule 26(a)(2) on all other parties  
26 no later than **April 28, 2022**. Each Party shall also provide dates for which those  
27 experts can be available for deposition.

1           C. *Modifications*. The parties may modify the deadline for exchange  
2 of expert disclosures by joint stipulation filed with the court; a motion is not  
3 required.

4           **7. Discovery.**

5           A. *Discovery Limitations*.

6           i. *Depositions*. No more than ten depositions, each limited to  
7 seven hours in one day, may be taken by the plaintiffs, defendants, or third-party  
8 defendants without leave of the Court. Fed. R. Civ. P. 30(a)(2), (d)(1).

9           ii. *Interrogatories*. No party may serve more than twenty-five  
10 interrogatories, including discrete subparts, on any other party, without leave of the  
11 Court. Fed. R. Civ. P. 33(a)(1).

12           iii. *Requests for Production*. No party may serve more than  
13 thirty requests on any other party without leave of the Court.

14           B. *Discovery Deadline*. All discovery shall be completed on or before  
15 **June 27, 2022**.

16           C. *Responses*. To be timely, discovery requests must be served  
17 sufficiently in advance of the deadline to allow for timely response by the cutoff  
18 date.

19           D. *Necessity*. The parties shall file no discovery except as necessary to  
20 support motions or objections.

21           E. *Discovery Conferences*. To avoid wasted time and expense,  
22 Counsel may contact chambers to schedule a telephonic conference to obtain an  
23 expedited ruling on discovery disputes. Prior to the conference, each party may  
24 submit to the Court a one-page summary explaining the discovery dispute.

25           **MOTION DEADLINES**

26           **8. Motions to Amend Pleadings or Add Parties**. Any motion to amend  
27 the pleadings or add named parties shall be filed and served by **April 18, 2022**.

1           **9.     *Daubert* Motion Deadline.** Challenges to the admissibility of expert  
2 opinion testimony shall be made by written motion and filed by **May 6, 2022**. If  
3 the party challenging expert testimony anticipates that an evidentiary hearing shall  
4 be required, the party shall so advise the Court and opposing counsel in  
5 conjunction with the filing of its motions.

6           **10.   Dispositive Motions.** All dispositive motions shall be filed and served  
7 on or before **July 5, 2022**.

8           **11.   Motions *in Limine*.**

9           A. *Motions* in Limine: shall be filed and served on or before **October**  
10 **3, 2022**.

11           B. *Responses*: shall be filed and served on or before **October 11,**  
12 **2022**.

13           C. *Replies*: shall be filed and served on or before **October 18, 2022**.

14           D. *Notation*: Motions *in limine* shall be noted for hearing at the  
15 pretrial conference.

16                           **TRIAL PREPARATION DEADLINES**

17           **12.   Exhibit and Witness Lists.**

18           A. *Exhibit Lists and Witness Lists*: shall be filed and served and  
19 exhibits made available for inspection (or copies provided), on or before **October**  
20 **11, 2022**.

21           B. *Identification*: The witness list shall include identification of each  
22 witness's testimony.

23           C. *Notation of Exhibits*: Where feasible, all exhibits identified in  
24 depositions shall be pre-marked with the exhibit numbers that will be used at trial.  
25 Plaintiff's trial exhibits are to be numbered 1 through 199; Defendant's exhibits are  
26 to be numbered 200 and following.

1 D. *Objections*: Objections to the opposing party's witness list or  
2 exhibit list and any accompanying briefs shall be filed and served on or before  
3 **October 17, 2022**.

4 E. *Responses*: Responses, if any, to objections shall be filed and  
5 served on or before **October 24, 2022**.

6 **13. Pretrial Exhibit Stipulation.**

7 A. *Stipulation*: The parties shall prepare a pretrial exhibit stipulation  
8 that shall contain each party's numbered list of all trial exhibits with the opposing  
9 party's objections to each exhibit, including the basis of the objection and the  
10 offering party's brief response. All exhibits to which there is no objection shall be  
11 deemed admitted, subject to any objections at trial that could not be raised in  
12 advance.

13 B. *Deadline*: The pretrial exhibit stipulation shall be filed on **October**  
14 **24, 2022**.

15 C. Objections to witness and exhibits shall be heard at the pretrial  
16 conference.

17 **14. Designation of Testimony.**

18 The parties shall notify the Court on or before **October 3, 2022**  
19 whether deposition testimony will be used at trial. The Court will then schedule a  
20 hearing to review all designated testimony and objections so that a final edited  
21 version of the deposition testimony can be prepared for trial.

22 **15. Pretrial Order.**

23 A. *Deadline*: A joint Pretrial Order, prepared in accordance with the  
24 format provided in Local Rule 16.1(e), shall be filed on or before **October 24,**  
25 **2022** and a copy e-mailed in Word format to the Court at  
26 [BastianOrders@waed.uscourts.gov](mailto:BastianOrders@waed.uscourts.gov).

1           B. *Consistency*: The list of exhibits contained in the joint Pretrial  
2 Order shall reflect the exhibit marking scheme described above in paragraph  
3 12(C).

4           C. *Duplicative Exhibits*: In preparing the joint Pretrial Order, the  
5 parties shall confer regarding duplicate exhibits and determine which party will  
6 submit such exhibits for trial.

7           **16. Trial Briefs and Proposed Voir Dire.** Trial briefs and voir dire shall  
8 be filed by **October 20, 2022**.

9           **17. Jury Instructions.** No later than **October 20, 2022**, the parties shall  
10 file jointly proposed jury instructions.

11           A. *Confer*. The parties shall confer regarding jury instructions and file  
12 jointly proposed jury instructions and a table of proposed Jury Instructions. The  
13 jointly proposed Jury Instructions should address only issues that are unique to this  
14 case and shall include instructions regarding the elements of each claim, any  
15 necessary definitions, and a proposed verdict form.

16           B. *Modifications*. If any proposed instruction is a modified version of  
17 model instructions or deviate from model instructions, the parties shall identify the  
18 modification and cite legal authority for the modification.

19           **18. Submissions on the First Day of Trial.** The Court requires that the  
20 following be submitted to the courtroom deputy clerk on the first day of trial:

21           A. *Exhibits*. Exhibits for presentation at the trial in tabbed binders  
22 indexed by exhibit number with exhibit tags placed consistently on the bottom  
23 right corner of each exhibit. Counsel shall submit to the Court an original binder  
24 and two copied binders of their exhibits together with three discs or flash drives  
25 containing the same.

26           B. *Exhibit List*. One copy of a final joint exhibit list.

27           C. *Witness List*. One copy of witness lists in the order in which the  
28 witnesses are expected to be called to testify.

**MODIFICATIONS**

**19. Good Cause.** Pursuant to Rule 16 of the Federal Rules of Civil Procedure, this schedule shall not be modified unless the Court finds good cause to grant leave for modifications.

**IT IS SO ORDERED.** The District Court Clerk is hereby directed to enter this Order and provide copies to counsel.

**DATED** this 30th day of November 2021.



A handwritten signature in blue ink that reads "Stanley A. Bastian". The signature is fluid and cursive, with a horizontal line drawn underneath it.

Stanley A. Bastian  
Chief United States District Judge